

Complete Text of Selected Solid Waste Bills

- AB 222 Adams Solid Waste: definitions
plus 8/2/10 BIOwaste Blog
- AB 737 Chesbro Solid Waste: diversion
- AB 1004 Portantino Solid Waste Postclosure and Correction Action Fund
- AB 2398 Perez Product stewardship: carpet
- SB 1100 Corbett Product stewardship: household batteries

AMENDED IN SENATE JULY 15, 2010
AMENDED IN SENATE JULY 8, 2009
AMENDED IN ASSEMBLY MAY 28, 2009
AMENDED IN ASSEMBLY MAY 5, 2009
AMENDED IN ASSEMBLY APRIL 14, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 222

Introduced by Assembly Members Adams and Ma
(Coauthors: Assembly Members Blakeslee, Conway, ~~Duvall,~~
Emmerson, Fletcher, Fuentes, Galgiani, Gilmore, Knight,
Mendoza, Smyth, and Torrico)
(Coauthors: Senators Benoit and Calderon)

February 4, 2009

~~An act to amend Sections 25741, 25806, 40194, and 40201 of, to add Sections 40103 and 41786.5 to, and to repeal Section 40117 of, the Public Resources Code, relating to energy. An act to amend Sections 40194 and 40201 of, to add Section 40103 to, and to repeal Section 40117 of, the Public Resources Code, relating to solid waste.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 222, as amended, Adams. ~~Energy: biofuels. Solid waste: definitions.~~

~~(1) Existing law establishes the Public Interest Research, Development, and Demonstration Fund in the State Treasury, and provides that the money collected by the public goods charge to support cost-effective energy efficiency and conservation activities and public~~

~~interest energy research, development, and demonstration projects not adequately provided by competitive and regulated markets, be deposited in the fund for use by the State Energy Resources Conservation and Development Commission (Energy Commission). Existing law requires the Energy Commission to use those funds to develop, implement, and administer the Public Interest Research, Development, and Demonstration Program to develop technologies to, among other things, improve environmental quality, enhance electrical system reliability, increase efficiency of energy-using technologies, lower electrical system costs, or provide other tangible benefits to electric utility customers. Existing law defines “in-state renewable electricity generation facility” for the purposes of the program to include, among other things, a facility that uses municipal solid waste conversion.~~

~~This bill would instead define “in-state renewable electricity generation facility” to include a facility that uses conversion at a biorefinery. The bill would define “biorefinery” to mean a facility that uses a nonincineration thermal, chemical, biological, or mechanical conservation process, or a combination of those processes, to produce clean burning fuel for generating electricity or a renewable fuel from carbonaceous materials not derived from fossil fuel or solid waste feedstock.~~

~~(2) The California Integrated Waste Management Act of 1989 requires cities and counties, on and after January 1, 2000, to divert 50% of all solid waste through source reduction, recycling, and composting activities.~~

~~This bill would authorize a jurisdiction, if the act requires a solid waste diversion of more than 50%, to consider solid waste diverted to a biorefinery as disposal reduction in meeting the solid waste diversion level requirement above 50% if the jurisdiction makes a specified certification to the board.~~

~~(3) The act~~

~~The California Integrated Waste Management Act of 1989 defines various terms, including “gasification,” “solid waste facility,” and “transformation” for the purposes of the act.~~

~~This bill would repeal the term “gasification.” The bill would additionally define “solid waste facility” to include a biorefinery that processes solid waste. The bill would revise and recast the definition of “transformation” to exclude from that definition, among other things, anaerobic digestion, as defined, and to include in that definition solid~~

waste conversion at a biorefinery, *as defined*. The bill would revise the definition of “solid waste” remove “gasification” from that definition.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 40103 is added to the Public Resources
2 Code, to read:
3 40103. “Anaerobic digestion” means a process using the
4 bacterial breakdown of compostable organic material in a
5 controlled environment that meets other parameters as established
6 by the department.
7 SEC. 2. Section 40117 of the Public Resources Code is
8 repealed.
9 40117. ~~“Gasification” means a technology that uses a~~
10 ~~noncombustion thermal process to convert solid waste to a clean~~
11 ~~burning fuel for the purpose of generating electricity, and that, at~~
12 ~~minimum, meets all of the following criteria:~~
13 (a) ~~The technology does not use air or oxygen in the conversion~~
14 ~~process, except ambient air to maintain temperature control.~~
15 (b) ~~The technology produces no discharges of air contaminants~~
16 ~~or emissions, including greenhouse gases, as defined in subdivision~~
17 ~~(g) of Section 38505 of the Health and Safety Code.~~
18 (c) ~~The technology produces no discharges to surface or~~
19 ~~groundwaters of the state.~~
20 (d) ~~The technology produces no hazardous waste.~~
21 (e) ~~To the maximum extent feasible, the technology removes~~
22 ~~all recyclable materials and marketable green waste compostable~~
23 ~~materials from the solid waste stream prior to the conversion~~
24 ~~process and the owner or operator of the facility certifies that those~~
25 ~~materials will be recycled or composted.~~
26 (f) ~~The facility where the technology is used is in compliance~~
27 ~~with all applicable laws, regulations, and ordinances.~~
28 (g) ~~The facility certifies to the board that any local agency~~
29 ~~sending solid waste to the facility is in compliance with this~~
30 ~~division and has reduced, recycled, or composted solid waste to~~
31 ~~the maximum extent feasible, and the board makes a finding that~~
32 ~~the local agency has diverted at least 30 percent of all solid waste~~
33 ~~through source reduction, recycling, and composting.~~

1 SEC. 3. Section 40194 of the Public Resources Code is
2 amended to read:

3 40194. "Solid waste facility" includes a solid waste transfer
4 or processing station, a composting facility, ~~a gasification facility,~~
5 a transformation facility, and a disposal facility. For purposes of
6 Part 5 (commencing with Section 45000), "solid waste facility"
7 additionally includes a solid waste operation that may be carried
8 out pursuant to an enforcement agency notification, as provided
9 in regulations adopted by the ~~board~~ department.

10 SEC. 4. Section 40201 of the Public Resources Code is
11 amended to read:

12 40201. "Transformation" means incineration, pyrolysis,
13 distillation, ~~or~~ biological conversion other than composting and
14 anaerobic digestion, or the processing of solid waste at a
15 biorefinery. "Biorefinery" means a facility that utilizes
16 nonincineration thermal, chemical, biological, or mechanical
17 conversion processes, other than composting and anaerobic
18 digestion. "Transformation" does not include composting,
19 ~~gasification anaerobic digestion,~~ or biomass conversion.

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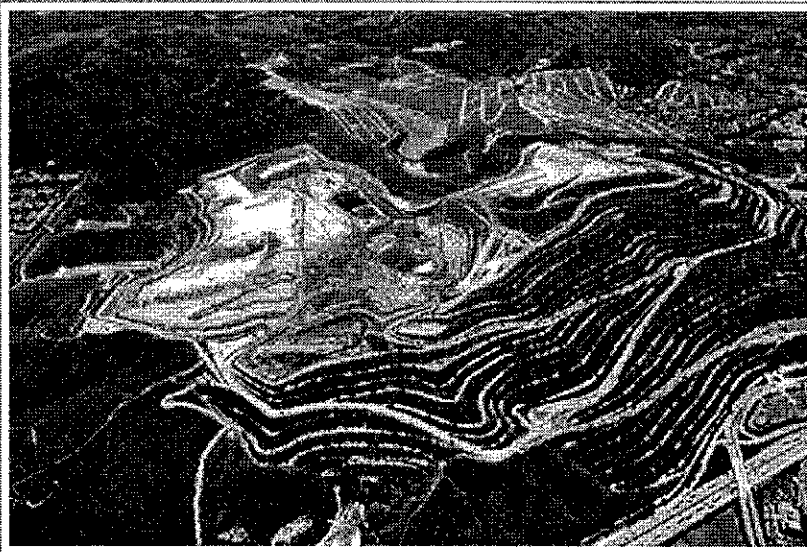
**All matter omitted in this version of the bill
appears in the bill as amended in the
Senate, July 8, 2009. (JR11)**

BIOwaste Blog

The 4th of 4 interlinked BIOenergy Blogs, this one covers urban waste and waste output from conversion technologies. The other three related blogs are the [BIOstock Blog](#), the [BIOconversion Blog](#), and the [BIOoutput Blog](#). Related #biowaste tweets @BIOblogger.

AUGUST 2, 2010

More Garbage from the CA Senate EQC



The Puente Hills Landfill is the largest operating sanitary landfill in the United States (and probably the world). It is scheduled to close in 2013.

Now that AB 222 has finally "passed" through the Senate Environmental Quality Committee (EQC), the question is, does the legislation meet the vision of what has passed through the full Assembly (54-13) and the Senate Utilities Committee (6-1) last year? The answer is a resounding "NO!"

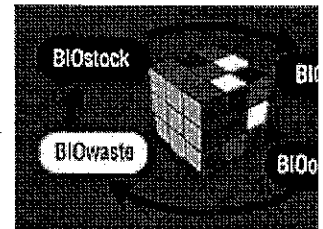
The Senators on the EQC bowed to the traditional recycling industry lobby and gutted the bill to the point that its authors are loathe to recommend it because it will virtually kill investment in any conversion project in the state. This despite the fact that AB 222 was endorsed by more than 100 credible organizations statewide, including the California Energy Commission, the Air Resources Board and CalRecycle.

This outcome means more overflowing of current landfills and more local municipalities (including the very environmentally astute [Los Angeles County Department of Sanitation/Integrated Waste](#)

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- ▼ 2010 (3)
 - ▼ August (1)
 - More Garbage from th Senate EQC
 - ▶ April (1)
 - ▶ March (1)

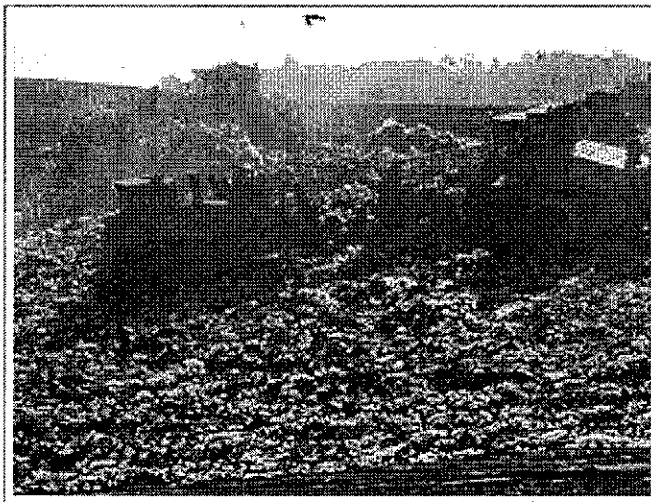
Management Task Force) with their hands tied as they try to improve systems and reduce the amount of money spent diverting over 40 million tons/year of municipal solid waste from landfills. It also means that hundreds of millions in Federal grants to deploy these projects are going to other states, even though the developers and major investors live and work in California.

Here is a snapshot of the current state of AB 222 by its lead promoter, Jim Stewart, Chairman of the Bioenergy Producers Association.

The Senate Environmental Quality Committee Deals a Major Blow to Renewable Energy in California

by Jim Stewart, Chairman of the Board, Bioenergy Producers Association

The world's organic waste streams represent one of its most promising and immediately available sources of renewable



energy. The United States annually generates more than 1.5 billion tons of organic waste. From this single resource this nation could produce enough advanced biofuels to eliminate its need to import petroleum.

Just from the nearly 40 million tons of post-recycled waste that California places in landfills each year, a wide range of 21st Century, non-incineration, non-combustion conversion technologies could sustainably and cleanly produce 1.6 billion gallons of ethanol and 1250 MW of power.

These technologies herald a new era in recycling—the recovery of energy from waste and the recycling of carbon. During the past year, the Department of Energy has provided \$600 million in direct grants to support a total of \$1.3 billion in biorefinery construction.

The California Air Resources Board has called for the construction of 24 conversion technology plants by 2020 in order to achieve the goals of AB 32 and the Low Carbon Fuel Standard. Ethanol for organic waste

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About Me



C. Scott Mill

President of The Miller DeW Corporation in Los Angeles, is a consultant, blogger, wr webmaster, and EDP (Electi Document Professional) who worked in marketing and communications for numerc engineering educational

for greenhouse gas reduction from automobiles under the LCFS.

However, current statute contains scientifically inaccurate definitions and repressive permitting pathways (more rigorous than those required to site a major solid waste landfill) that are driving biobased technology producers and investment capital away from California.

AB 222, as passed by the Assembly and approved by the Senate Utility, Energy and Communications Committee, was designed to address these issues. It would have provided a clear and achievable permitting pathway for biorefinery projects. AB 222 would have qualified the waste feedstocks processed by these facilities as landfill reduction (rather than as disposal) and would have enabled the electricity produced from the biogenic portion of solid waste to count as renewable under the state’s Renewable Portfolio Standard (as does landfill gas).

The bill was consistent with the Waxman/Markey bill, which would qualify the biogenic portion of municipal solid waste as a feedstock for renewable electricity production under the federal RPS. It was similarly consistent with the EPA’s Renewable Fuel Standard (RFS2), which enabled MSW as a feedstock for advanced biofuels production.

However, in late June, the five Democrats on the Senate Environmental Quality Committee, yielding to opposition orchestrated by lobbyists for the traditional recycling industry, stripped AB 222 of its key elements, including the RPS and landfill reduction credits. This despite the fact that AB 222, in the form that passed the Assembly, was endorsed by more than 100 credible organizations statewide, including the California Energy Commission, the Air Resources Board and CalRecycle. Further, it was approved on bi-partisan votes of the Committees that oversee energy issues in both the Assembly (11-0) and Senate (6-1), and by the Assembly itself (54-13).

And now, the Environmental Quality Committee has further amended the bill to create even more restrictive pathways for the implementation of conversion technologies in the state. These amendments place all conversion technologies, both high and low temperature, in “transformation”, a category that equates them with incineration, permanently classifying them as disposal and leaving them subject to the Countywide Siting Element. This statutory provision requires that a project proponent obtain the approval of a majority of city councils representing a majority of the population in a County before he can commence the CEQA process. In Los Angeles County, this would require a project proponent to obtain the approval of a minimum of 45 city councils.

Under current statute, even if the permitting process were successful, it would be at least four years before a solid waste-to-biofuels/green

biomass feedstock supply, logistics, and conversion technology companies. He is a member of ACORE, 25x25, FRA, and SIM. Follow his tweets @BIOblogger .

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[2007 Digests \(1\)](#)

[AB 222 \(3\)](#)

[agriculture \(6\)](#)

[algae \(1\)](#)

[Asia \(2\)](#)

[bacteria \(2\)](#)

[biofuels \(16\)](#)

[biopower \(11\)](#)

[biowaste \(3\)](#)

[California \(24\)](#)

[CARB \(7\)](#)

[credits \(1\)](#)

[D.O.E. \(3\)](#)

[decentralization \(4\)](#)

[education \(6\)](#)

[electricity \(9\)](#)

[emissions \(25\)](#)

[forestry \(6\)](#)

[gasification \(22\)](#)

[hydrogen \(1\)](#)

[legislation \(9\)](#)

[Los Angeles \(18\)](#)

[manpower \(2\)](#)

[MSW \(2\)](#)

[nanotechnology \(1\)](#)

[paper \(1\)](#)

[pollution \(1\)](#)

[recycling \(16\)](#)

[reduction \(4\)](#)

[RENEW L.A. \(8\)](#)

[report \(7\)](#)

time, the state will landfill 240 million tons of post-recycled solid waste.

In 2010, as a nation, we have experienced a massive oil spill in the Gulf--perhaps the most devastating environmental disaster in the nation's history--we are engaged in two wars in the Middle East, and as a nation we are paying \$250 billion annually to import petroleum, a meaningful portion of which is finding its way to organizations whose goals are to destroy this nation's value system, its economy and its way of life.

300 thermal conversion technologies are operating throughout the world and are meeting all environmental standards of their jurisdictions, and in Europe, these standards are often higher than those of California. All of these facilities create one and the same product--synthesis gas, which can be used to produce pipeline quality natural gas, power, chemicals and other products. More than 100 of these facilities--in Europe, Japan, China and elsewhere--are treating municipal solid waste in the process of producing electricity. And now, these technologies are being introduced across North America to produce biofuels. They are a key element in enabling this nation to meet its mandate for the production of 21 billion gallons of advanced non-food derived biofuels by 2022.

For these reasons, one would expect the California legislature, particularly its Environmental Committees, to support major initiatives that could assist in reducing the nation's dependence on fossil fuels.

However, for more than five years, the environmental committees of the California legislature have blocked legislation that would enable the permitting and construction of clean 21st century technologies that could contribute to national security, energy independence, jobs and a better environment for California.

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Posted by C. Scott Miller at 12:37 PM



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[rural](#) (4)

[Scoping Plan](#) (2)

[sequestration](#) (2)

[smokestack](#) (1)

[stakeholders](#) (7)

[urban](#) (39)

AMENDED IN SENATE JUNE 2, 2010
AMENDED IN SENATE SEPTEMBER 4, 2009
AMENDED IN SENATE SEPTEMBER 2, 2009
AMENDED IN SENATE AUGUST 26, 2009
AMENDED IN SENATE JUNE 30, 2009
CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 737

Introduced by Assembly Member Chesbro
(Coauthors: Assembly Members Huffman and Salas)
(Coauthors: Senators Padilla and Pavley)

February 26, 2009

An act to amend Sections 41730, 41731, 41734, 41735, 41736, 41800, and 42926 of, to add Sections ~~40004~~, 42926, 44004, and 50001 of, and to add Sections 40004, 40116.5, 41734.5, and 41780.01 to, and to add Chapter 12.8 (commencing with Section 42649) to Part 3 of Division 30 of, the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 737, as amended, Chesbro. Solid waste: diversion.

(1) The California Integrated Waste Management Act of 1989, which is administered by the ~~California Integrated Waste Management Board~~ *Department of Resources Recycling and Recovery*, requires each city, county, and regional agency, if any, to develop a source reduction and recycling element of an integrated waste management plan containing specified components, including a source reduction component, a recycling component, and a composting component. With certain

exceptions, the source reduction and recycling element of that plan is required to divert 50% of all solid waste from landfill disposal or transformation by January 1, 2000, through source reduction, recycling, and composting activities.

Existing law requires the ~~board~~ *department* to review, at least once every 2 years, a jurisdiction's source reduction and recycling element and household hazardous waste element. The ~~board~~ *department* is required to issue an order of compliance if the ~~board~~ *department* finds that a jurisdiction has failed to implement its source reduction and recycling element or its household hazardous waste element, pursuant to a specified procedure. If, after issuing an order of compliance, the ~~board~~ *department* finds the city, county, or regional agency has failed to make a good faith effort to implement those elements, the ~~board~~ *department* is authorized to impose administrative civil penalties upon the city, county, or regional agency.

This bill would require the ~~board~~ *department*, on January 1, 2020, and annually thereafter, to ensure that 75% of all solid waste generated is source reduced, recycled, or composted. The bill would prohibit the ~~board~~ *department* from imposing any enforceable requirements against a local agency or a solid waste enterprise or that includes aspects of solid waste handling that are of local concern to implement this 75% diversion level.

(2) Existing law requires a local agency to impose certain requirements on an operator of a large venue or event to facilitate solid waste reduction, reuse, and recycling.

This bill would require the owner or operator of a business that contracts for solid waste services and generates more than 4 cubic yards of total solid waste and recyclable materials per week to take specified action ~~by January 1, 2011~~.

The bill would require a jurisdiction to implement a commercial recycling program meeting specified elements but would not require the jurisdiction to revise its source reduction and recycling element if the jurisdiction adds or expands a commercial recycling program to meet this requirement. By requiring a jurisdiction to implement a commercial recycling program, this bill would impose a state-mandated local program.

The bill would require the ~~board~~ *department* to review a jurisdiction's compliance with the above requirement as a part of the ~~board's~~ *department's* review of a jurisdiction's compliance with the 50% solid waste diversion requirement.

(3) Existing law requires a city, county, and city and county to incorporate the nondisposal facility element and any amendment to the element into the revised source reduction and recycling element at the time of the 5-year revision of the source reduction and recycling element. Existing law requires the ~~board~~ department to review an amendment to a nondisposal facility element. Existing law requires a local task force to review and comment on amendments to a nondisposal facility element.

This bill would repeal those requirements. The bill would instead require a city, county, city and county, or regional agency to update all information required to be included in the nondisposal facility element. The bill would provide that the update is not subject to approval by the ~~board~~ department or comment and review by a local task force.

(4) Existing law requires each state agency to submit an annual report to the ~~board~~ department summarizing its progress in reducing solid waste that is due on September 1 of each year starting in ~~2010~~ 2009.

This bill would change the due date to May 1 of each year.

(5) *Existing law requires an operator of a solid waste facility that wants to change the design or operation of the solid waste facility in a manner not authorized by the current permit to apply for a revised permit. Within 60 days of receipt of the application for the revised permit, the enforcement agency is required to inform the operator, and in some circumstances the department, of its determination to allow the change without revision of the permit, disallow the change, require a revision of the permit to allow the change, or require review under the California Environmental Quality Act before a decision is made.*

This bill would also require the enforcement agency to give notice of its determination to allow certain changes without a revision to the permit through a modification to the permit allowed by regulations developed by the department.

~~(5)~~

(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. (a) The Legislature finds and declares both of
2 the following:

3 (1) Since the enactment of the California Integrated Waste
4 Management Act of 1989 (Division 30 (commencing with Section
5 40000) of the Public Resources Code), local governments and
6 private industries have worked jointly to create an extensive
7 material collection and recycling infrastructure and have
8 implemented effective programs to achieve a statewide diversion
9 rate above 50 percent.

10 (2) Although the state now leads the nation in solid waste
11 reduction and recycling, the state continues to dispose of more
12 than 40 million tons of solid waste each year, which is more than
13 the national average on a per capita basis. Additional efforts must
14 be undertaken to divert more solid waste from disposal in order
15 to conserve scarce natural resources.

16 (b) The Legislature further finds and declares all of the
17 following:

18 (1) Approximately 64 percent of the state's solid waste disposal
19 is from commercial sources, including commercial, industrial,
20 construction, and demolition activities. In addition, 8 percent of
21 the state's solid waste disposal is from multifamily residential
22 housing that is often collected along with the commercial waste
23 stream.

24 (2) The state's local governments have made significant progress
25 in reducing the amount of solid waste disposal from single-family
26 residential sources that make up 28 percent of the state's disposal,
27 but have faced more challenges in reducing disposal from the
28 commercial and multifamily sources.

29 (3) The disposal of recyclable materials in the commercial solid
30 waste stream prevents materials from circulating in the state
31 economy to produce jobs and new products. Reducing the disposal
32 of these materials will conserve landfill capacity and contribute
33 to a reduction in greenhouse gas emissions and climate change.

34 (4) The state has long been a national and international leader
35 in environmental stewardship efforts and mandating the diversion
36 of solid waste away from disposal. Bold environmental leadership
37 and a new approach are needed to divert commercial solid waste
38 away from disposal.

1 (5) By exercising a leadership role, the state will lead the
2 business community toward a future in which the environment
3 and the economy both grow stronger together by recycling
4 materials, which creates new jobs, instead of burying resources,
5 which exit the economy forever.

6 (6) By requiring commercial recycling, the state will help
7 businesses reduce costly disposal fees and reclaim valuable
8 resources.

9 SEC. 2. Section 40004 is added to the Public Resources Code,
10 to read:

11 40004. (a) The Legislature finds and declares all of the
12 following:

13 (1) Solid waste diversion and disposal reduction require the
14 availability of adequate solid waste processing and composting
15 capacity.

16 (2) The existing network of public and private solid waste
17 processing and composting facilities provides a net environmental
18 benefit to the communities served, and represents a valuable asset
19 and resource of this state, one that must be sustained and expanded
20 to provide the additional solid waste processing capacity that will
21 be required to achieve the additional solid waste diversion targets
22 expressed in Section 41780.01 and the commercial recycling
23 requirement expressed in Section 42649.

24 (3) The provisions in existing law that confer broad discretion
25 on local agencies to determine aspects of solid waste handling that
26 are of local concern have significantly contributed to the statewide
27 diversion rate exceeding 50 percent, and further progress toward
28 decreasing solid waste disposal requires that this essential element
29 of local control be preserved.

30 (b) It is the intent of the Legislature to encourage the
31 development of the additional solid waste processing and
32 composting capacity that is needed to meet state objectives for
33 decreasing solid waste disposal by identifying incentives for local
34 governments to locate and approve new or expanded facilities that
35 meet and exceed their capacity needs, and to recognize local
36 agencies that make significant contributions to the state's overall
37 solid waste reduction and recycling objectives through the siting
38 of facilities for the processing and composting of materials diverted
39 from the solid waste stream.

1 (c) By setting a new solid waste diversion target in Section
2 41780.01 and new commercial waste recycling requirements in
3 Section 42649, the Legislature does not intend to limit a right
4 afforded to local governments pursuant to Section 40059, or to
5 modify or abrogate in any manner the rights of a local government
6 or solid waste enterprise with regard to a solid waste handling
7 franchise or contract.

8 *SEC. 3. Section 40116.5 is added to the Public Resources Code,*
9 *to read:*

10 40116.5. "Department" means the Department of Resources
11 Recycling and Recovery.

12 ~~SEC. 3.~~

13 *SEC. 4.* Section 41730 of the Public Resources Code is
14 amended to read:

15 41730. Except as provided in Section 41750.1, each city shall
16 prepare, adopt, and, except for a city and county, transmit to the
17 county in which the city is located a nondisposal facility element
18 that includes all of the information required by this chapter and
19 that is consistent with the implementation of a city source reduction
20 and recycling element adopted pursuant to this part. The
21 nondisposal facility element and any updates to the element shall
22 not be subject to the approval of the county and the majority of
23 cities with the majority of the population in the incorporated area.

24 ~~SEC. 4.~~

25 *SEC. 5.* Section 41731 of the Public Resources Code is
26 amended to read:

27 41731. Except as provided in Section 41750.1, each county
28 shall prepare, adopt, and, except for a city and county, transmit to
29 the cities located in the county a nondisposal facility element that
30 includes all of the information required by this chapter and that is
31 consistent with the implementation of a county source reduction
32 and recycling element adopted pursuant to this part. The
33 nondisposal facility element and any updates to the element shall
34 not be subject to the approval of the majority of cities with the
35 majority of the population in the incorporated area.

36 ~~SEC. 5.~~

37 *SEC. 6.* Section 41734 of the Public Resources Code is
38 amended to read:

39 41734. (a) (1) Prior to adopting a nondisposal facility element,
40 the city, county, or regional agency shall submit the element to

1 the task force created pursuant to Section 40950 for review and
2 comment.

3 (2) Prior to adopting a regional agency nondisposal facility
4 element, if the jurisdiction of the regional agency extends beyond
5 the boundaries of a single county, the regional agency shall submit
6 the element for review and comment to each task force created
7 pursuant to Section 40950 of each county within the jurisdiction
8 of the regional agency.

9 (b) Comments by the task force shall include an assessment of
10 the regional impacts of potential diversion facilities and shall be
11 submitted to the city, county, or regional agency and to the ~~board~~
12 *department* within 90 days of the date of receipt of the nondisposal
13 facility element for review and comment.

14 ~~SEC. 6.~~

15 *SEC. 7.* Section 41734.5 is added to the Public Resources Code,
16 to read:

17 41734.5. (a) Once a nondisposal facility element has been
18 adopted, the city, county, or regional agency shall update all
19 information required to be included in the nondisposal facility
20 element, including, but not limited to, new information regarding
21 existing and new, or proposed nondisposal facilities.

22 (b) Updates shall be provided to the ~~board~~ *department* within
23 30 days of any change in information.

24 (c) Copies of the updated information shall also be provided to
25 the local task force and shall be appended or otherwise added to
26 the nondisposal facility element.

27 (d) The local task force shall not be required to review and
28 comment on the updates to the nondisposal facility elements.

29 (e) Updates to the nondisposal facility elements are not subject
30 to approval by the ~~board~~ *department*.

31 ~~SEC. 7.~~

32 *SEC. 8.* Section 41735 of the Public Resources Code is
33 amended to read:

34 41735. (a) Notwithstanding Division 13 (commencing with
35 Section 21000), the adoption or update of a nondisposal facility
36 element shall not be subject to environmental review.

37 (b) Local agencies may impose a fee on project proponents to
38 fund their necessary and actual costs of preparing and approving
39 updates to nondisposal facility elements.

1 ~~SEC. 8.~~

2 ~~SEC. 9.~~ Section 41736 of the Public Resources Code is
3 amended to read:

4 41736. It is not the intent of the Legislature to require cities
5 and counties to revise their source reduction and recycling elements
6 to comply with the requirements of this chapter.

7 ~~SEC. 9.~~

8 ~~SEC. 10.~~ Section 41780.01 is added to the Public Resources
9 Code, to read:

10 41780.01. On or before January 1, 2020, and annually
11 thereafter, the ~~board~~ department shall ensure that 75 percent of
12 solid waste generated is source reduced, recycled, or composted.
13 In implementing this section, the ~~board~~ department shall not
14 include any requirements that are enforceable against a local agency
15 or solid waste enterprise, or that ~~includes~~ include aspects of solid
16 waste handling that are of local concern. *This section does not*
17 *confer authority on the department beyond what is provided by*
18 *any other law.*

19 ~~SEC. 10.~~

20 ~~SEC. 11.~~ Section 41800 of the Public Resources Code is
21 amended to read:

22 41800. (a) Except as provided in subdivision (b), within 120
23 days from the date of receipt of a countywide or regional integrated
24 waste management plan that the ~~board~~ department has determined
25 to be complete, or any element of the plan that the ~~board~~
26 department has determined to be complete, the ~~board~~ department
27 shall determine whether the plan or element is in compliance with
28 Article 2 (commencing with Section 40050) of Chapter 1 of Part
29 1, Chapter 2 (commencing with Section 41000), and Chapter 5
30 (commencing with Section 41750), and, based upon that
31 determination, the ~~board~~ department shall approve, conditionally
32 approve, or disapprove the plan or element.

33 (b) (1) Within 120 days from the date of receipt of a city, county,
34 or regional agency nondisposal facility element that the ~~board~~
35 department has determined to be complete, the ~~board~~ department
36 shall determine whether the element that the ~~board~~ department has
37 determined to be complete is in compliance with Chapter 4.5
38 (commencing with Section 41730) and Article 1 (commencing
39 with Section 41780) of Chapter 6, and, based upon that

1 determination, the ~~board~~ *department* shall approve, conditionally
2 approve, or disapprove the element within that time period.

3 (2) In reviewing the element, the ~~board~~ *department* shall:

4 (A) Not consider the estimated capacity of the facility or
5 facilities in the element unless the ~~board~~ *department* determines
6 that this information is needed to determine whether the element
7 meets the requirements of Article 1 (commencing with Section
8 41780) of Chapter 6.

9 (B) Recognize that individual facilities represent portions of
10 local plans or programs that are designed to achieve the diversion
11 requirements of Section 41780 and therefore may not arbitrarily
12 require new or expanded diversion at proposed facilities.

13 (C) Not disapprove an element that includes a transfer station
14 or other facility solely because the facility does not contribute
15 towards the jurisdiction's efforts to comply with Section 41780.

16 (c) If the ~~board~~ *department* does not act to approve, conditionally
17 approve, or disapprove an element that the ~~board~~ *department* has
18 determined to be complete within 120 days, the ~~board~~ *department*
19 shall be deemed to have approved the element.

20 ~~SEC. 11.~~

21 *SEC. 12.* Chapter 12.8 (commencing with Section 42649) is
22 added to Part 3 of Division 30 of the Public Resources Code, to
23 read:

24
25 CHAPTER 12.8. COMMERCIAL RECYCLING

26
27 42649. (a) It is the intent of the Legislature to require
28 businesses to recycle solid waste that they generate.

29 (b) It is the intent of the Legislature to allow jurisdictions
30 flexibility in developing and maintaining commercial recycling
31 programs.

32 42649.1. For ~~the~~ purposes of this chapter, the following terms
33 mean the following:

34 (a) "Business" means a commercial entity operated by a firm,
35 partnership, proprietorship, joint stock company, corporation, or
36 association that is organized as a for-profit or nonprofit entity, or
37 a multifamily residential dwelling of five units or more.

38 (b) "Commercial waste generator" means a business subject to
39 subdivision (a) of Section 42649.2.

1 (c) "Self-hauler" means a business that hauls its own waste
2 rather than contracting for that service.

3 42649.2. (a) ~~On or before January 1, 2011, the~~ *The* owner or
4 operator of a business that contracts for solid waste services and
5 generates more than four cubic yards of total solid waste and
6 recyclable materials that are not solid waste per week shall arrange
7 for recycling services, consistent with state or local laws or
8 requirements, including a local ordinance or agreement, applicable
9 to the collection, handling, or recycling of solid waste, to the extent
10 that these services are offered and reasonably available from a
11 local service provider.

12 (b) A commercial waste generator shall take either of the
13 following actions:

14 (1) Source separate specified recyclable materials from solid
15 waste and subscribe to a basic level of recycling service that
16 includes the collection of those recyclable materials or specific
17 provisions for authorized self-hauling.

18 (2) Subscribe to an alternative type of recycling service that
19 may include mixed waste processing that yields diversion results
20 comparable to source separation.

21 42649.3. (a) Each jurisdiction shall implement a commercial
22 recycling program appropriate for that jurisdiction designed to
23 divert solid waste from businesses whether or not the jurisdiction
24 has met the requirements of Section 41780.

25 (b) If a jurisdiction already has a commercial recycling program
26 as one of its diversion elements that meets the requirements of this
27 section, it shall not be required to implement a new or expanded
28 commercial recycling program.

29 (c) The commercial recycling program shall be directed at a
30 business, as defined in subdivision (a) of Section 42649.1, and
31 may include, but is not limited to, any of the following:

32 (1) Implementing a mandatory commercial recycling policy or
33 ordinance.

34 (2) Requiring a mandatory commercial recycling program
35 through a franchise contract or agreement.

36 (3) Requiring all commercial recycling material to go through
37 a mixed processing system that diverts material from disposal.

38 (d) The commercial recycling program shall include education
39 and outreach to businesses.

1 (e) The commercial recycling program may include enforcement
2 and monitoring provisions.

3 (f) The commercial recycling program may include certification
4 requirements for self-haulers.

5 (g) ~~The board~~ *department* shall review a jurisdiction's
6 compliance with this section as part of the ~~board's department's~~
7 review required by Section 41825.

8 42649.4. (a) If a jurisdiction adds or expands a commercial
9 recycling program to meet the requirements of Section 42649.3,
10 the jurisdiction shall not be required to revise its source reduction
11 and recycling element, or obtain the ~~board's department's~~ approval
12 pursuant to Article 1 (commencing with Section 41800) of Chapter
13 7 of Part 1.

14 (b) If an addition or expansion of a jurisdiction's commercial
15 recycling program is necessary, the jurisdiction shall update in its
16 annual report required pursuant to Section 41821.

17 42649.5. (a) This chapter does not limit the authority of a local
18 agency to adopt, implement, or enforce a local commercial
19 recycling requirement that is more stringent or comprehensive
20 than the requirements of this section or limit the authority of a
21 local agency in a county with a population of less than 200,000 to
22 require commercial recycling.

23 (b) This chapter does not modify or abrogate in any manner any
24 of the following:

25 (1) A franchise granted or extended by a city, county, or other
26 local government agency.

27 (2) A contract, license, or permit to collect solid waste
28 previously granted or extended by a city, county, or other local
29 government agency.

30 (3) The existing right of a business to sell or donate its recyclable
31 materials.

32 ~~SEC. 12.~~

33 *SEC. 13.* Section 42926 of the Public Resources Code is
34 amended to read:

35 42926. (a) In addition to the information provided to the ~~board~~
36 *department* pursuant to Section 12167.1 of the Public Contract
37 Code, each state agency shall submit an annual report to the ~~board~~
38 *department* summarizing its progress in reducing solid waste as
39 required by Section 42921. The annual report shall be due on or
40 before May 1, ~~2010~~ 2011, and on or before May 1 in each

1 subsequent year. The information in this report shall encompass
2 the previous calendar year.

3 (b) Each state agency's annual report to the ~~board~~ *department*
4 shall, at a minimum, include all of the following:

5 (1) Calculations of annual disposal reduction.

6 (2) Information on the changes in waste generated or disposed
7 of due to increases or decreases in employees, economics, or other
8 factors.

9 (3) A summary of progress made in implementing the integrated
10 waste management plan.

11 (4) The extent to which the state agency intends to utilize
12 programs or facilities established by the local agency for the
13 handling, diversion, and disposal of solid waste. If the state agency
14 does not intend to utilize those established programs or facilities,
15 the state agency shall identify sufficient disposal capacity for solid
16 waste that is not source reduced, recycled, or composted.

17 (5) Other information relevant to compliance with Section
18 42921.

19 (c) The ~~board~~ *department* shall use, but is not limited to the use
20 of, the annual report in the determination of whether the agency's
21 integrated waste management plan needs to be revised.

22 *SEC. 14. Section 44004 of the Public Resources Code is*
23 *amended to read:*

24 44004. (a) An operator of a solid waste facility ~~may~~ *shall* not
25 make a significant change in the design or operation of the solid
26 waste facility that is not authorized by the existing permit, unless
27 the change is approved by the enforcement agency, the change
28 conforms with this division and all regulations adopted pursuant
29 to this division, and the terms and conditions of the solid waste
30 facilities permit are revised to reflect the change.

31 (b) If the operator wishes to change the design or operation of
32 the solid waste facility in a manner that is not authorized by the
33 existing permit, the operator shall file an application for revision
34 of the existing solid waste facilities permit with the enforcement
35 agency. The application shall be filed at least 180 days in advance
36 of the date when the proposed modification is to take place unless
37 the 180-day time period is waived by the enforcement agency.

38 (c) The enforcement agency shall review the application to
39 determine all of the following:

- 1 (1) Whether the change conforms with this division and all
2 regulations adopted pursuant to this division.
- 3 (2) Whether the change requires review pursuant to Division
4 13 (commencing with Section 21000).
- 5 (d) Within 60 days from the date of the receipt of the application
6 for a revised permit, the enforcement agency shall inform the
7 operator, and if the enforcement agency is a local enforcement
8 agency, also inform the ~~board~~ department, of its determination to
9 do any of the following:
- 10 (1) Allow the change without a revision to the permit.
- 11 (2) *Allow the following changes without a revision to the permit*
12 *through a modification to the permit allowed pursuant to*
13 *regulations developed by the department:*
- 14 (A) *The proposed change is to allow a nondisposal facility to*
15 *increase the amount of solid waste that it may handle and that*
16 *increased amount is within the existing design capacity as*
17 *described in the facility's transfer processing report and review*
18 *pursuant to Division 13 (commencing with Section 21000).*
- 19 (B) *The proposed change is to allow a disposal facility to add*
20 *a nondisposal activity to the facility that will increase the amount*
21 *of solid waste that may be handled as described in the facility's*
22 *report of facility information and review pursuant to Division 13*
23 *(commencing with Section 21000).*
- 24 ~~(2)~~
- 25 (3) Disallow the change because it does not conform with the
26 requirements of this division or the regulations adopted pursuant
27 to this division.
- 28 ~~(3)~~
- 29 (4) Require a revision of the solid waste facilities permit to
30 allow the change.
- 31 ~~(4)~~
- 32 (5) Require review under Division 13 (commencing with Section
33 21000) before a decision is made.
- 34 (e) The operator has 30 days within which to appeal the decision
35 of the enforcement agency to the hearing panel, as authorized
36 pursuant to Article 2 (commencing with Section 44305) of Chapter
37 4. The enforcement agency shall provide notice of a hearing held
38 pursuant to this subdivision in the same manner as notice is
39 provided pursuant to subdivision (h).

1 (f) Under circumstances that present an immediate danger to
2 the public health and safety or to the environment, as determined
3 by the enforcement agency, the 180-day filing period may be
4 waived.

5 (g) (1) A permit revision is not required for the temporary
6 suspension of activities at a solid waste facility if the suspension
7 meets either of the following criteria:

8 (A) The suspension is for the maintenance or minor
9 modifications to a solid waste unit or to solid waste management
10 equipment.

11 (B) The suspension is for temporarily ceasing the receipt of
12 solid waste at a solid waste management facility and the owner or
13 operator is in compliance with all other applicable terms and
14 conditions of the solid waste facilities permit and minimum
15 standards adopted by the ~~board~~ *department*.

16 (2) An owner or operator of a solid waste facility who
17 temporarily suspends operations shall remain subject to the closure
18 and postclosure maintenance requirements of this division and to
19 all other requirements imposed by federal law pertaining to the
20 operation of a solid waste facility.

21 (3) The enforcement agency may impose any reasonable
22 conditions relating to the maintenance of the solid waste facility,
23 environmental monitoring, and periodic reporting during the period
24 of temporary suspension. The ~~board~~ *department* may also impose
25 any reasonable conditions determined to be necessary to ensure
26 compliance with applicable state standards.

27 (h) (1) (A) Before making its determination pursuant to
28 subdivision (d), the enforcement agency shall submit the proposed
29 determination to the ~~board~~ *department* for comment and hold at
30 least one public hearing on the proposed determination. The
31 enforcement agency shall give notice of the hearing pursuant to
32 Section 65091 of the Government Code, except that the notice
33 shall be provided to all owners of real property within a distance
34 other than 300 feet of the real property that is the subject of the
35 hearing, if specified in the regulations adopted by the ~~board~~
36 *department* pursuant to subdivision (i). The enforcement agency
37 shall also provide notice of the hearing to the ~~board~~ *department*
38 when it submits the proposed determination to the ~~board~~
39 *department*.

1 (B) The enforcement agency shall mail or deliver the notice
2 required pursuant to subparagraph (A) at least 10 days prior to the
3 date of the hearing to any person who has filed a written request
4 for the notice with a person designated by the enforcement agency
5 to receive these requests. The enforcement agency may charge a
6 fee to the requester in an amount that is reasonably related to the
7 costs of providing this service and the enforcement agency may
8 require each request to be annually renewed.

9 (C) The enforcement agency shall consider environmental justice
10 issues when preparing and distributing the notice to ensure that
11 the notice is concise and understandable for
12 limited-English-speaking populations.

13 (2) If the ~~board~~ department comments pursuant to paragraph
14 (1), the ~~board~~ department shall specify whether the proposed
15 determination is consistent with the regulation adopted pursuant
16 to subdivision (i).

17 (i) (1) The ~~board~~ department shall, to the extent resources are
18 available, adopt regulations that implement subdivision (h) and
19 define the term "significant change in the design or operation of
20 the solid waste facility that is not authorized by the existing
21 permit."

22 (2) While formulating and adopting the regulations required
23 pursuant to paragraph (1), the ~~board~~ department shall consider
24 recommendations of the Working Group on Environmental Justice
25 and the advisory group made pursuant to Sections 71113 and 71114
26 and the report required pursuant to Section 71115.

27 *SEC. 15. Section 50001 of the Public Resources Code is*
28 *amended to read:*

29 50001. (a) Except as provided by subdivision (b), after a
30 countywide or regional agency integrated waste management plan
31 has been approved by the ~~California Integrated Waste Management~~
32 ~~Board~~ Department of Resources Recycling and Recovery pursuant
33 to Division 30 (commencing with Section 40000), ~~no~~ a person
34 shall *not* establish or expand a solid waste facility, as defined in
35 Section 40194, in the county unless the solid waste facility meets
36 one of the following criteria:

37 (1) The solid waste facility is a disposal facility or a
38 transformation facility, the location of which is identified in the
39 countywide siting element or amendment thereto, which has been
40 approved pursuant to Section 41721.

1 (2) The solid waste facility is a facility ~~which that~~ is designed
2 to, ~~and which as a condition of its permit, will recover for reuse~~
3 or recycling at least 5 percent of the total volume of material
4 received by the facility, ~~and which that is identified described in~~
5 the nondisposal facility element ~~or amendment thereto, which that~~
6 has been approved pursuant to Section 41800 ~~or 41801.5~~ *or is*
7 *included in an update to that element.*

8 (b) Solid waste facilities other than those specified in paragraphs
9 (1) and (2) of subdivision (a) shall not be required to comply with
10 the requirements of this section.

11 (c) The person or agency proposing to establish a solid waste
12 facility shall prepare and submit a site identification and description
13 of the proposed facility to the task force established pursuant to
14 Section 40950. Within 90 days after the site identification and
15 description is submitted to the task force, the task force shall meet
16 and comment on the proposed solid waste facility in writing. These
17 comments shall include, but are not limited to, the relationship
18 between the proposed solid waste facility and the implementation
19 schedule requirements of Section 41780 and the regional impact
20 of the facility. The task force shall transmit these comments to the
21 person or public agency proposing establishment of the solid waste
22 facility, to the county, and to all cities within the county. The
23 comments shall become part of the official record of the proposed
24 solid waste facility.

25 (d) The review and comment by the local task force *shall not*
26 *be required by subdivision (c) for amendment to an element may*
27 *be satisfied by the review required by subdivision (a) of Section*
28 *41734 for an amendment to an element for an update to a*
29 *nondisposal facility element.*

30 ~~SEC. 13.~~

31 *SEC. 16.* No reimbursement is required by this act pursuant to
32 Section 6 of Article XIII B of the California Constitution because
33 a local agency or school district has the authority to levy service
34 charges, fees, or assessments sufficient to pay for the program or
35 level of service mandated by this act, within the meaning of Section
36 17556 of the Government Code.

O

AMENDED IN SENATE JULY 15, 2010
AMENDED IN SENATE JUNE 2, 2010
AMENDED IN SENATE JANUARY 20, 2010
AMENDED IN ASSEMBLY MAY 4, 2009
AMENDED IN ASSEMBLY APRIL 23, 2009
AMENDED IN ASSEMBLY APRIL 16, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 1004

Introduced by Assembly Member Portantino

February 27, 2009

An act to amend Sections 48000, 48010, 48012, and 48013 of the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 1004, as amended, Portantino. Solid waste: State Solid Waste Postclosure and Corrective Action Trust Fund.

(1) The California Integrated Waste Management Act of 1989 requires a solid waste disposal fee, on and after January 1, 2012, to be increased by \$0.12 per ton for each operator of a solid waste landfill that notifies the Department of Resources Recycling and Recovery that it elects to participate in the State Solid Waste Postclosure and Corrective Action Trust Fund. However, the fee will not be operative on or after January 1, 2012, unless the department receives, on or before July 1, 2011, letters of participation in the fund from landfill operators representing at least 50% of the total volume of waste disposed of in 2010. The act requires the department to notify the State Board of

Equalization on or before August 31, 2011, if the increased fee will become operative.

This bill would extend all of those dates by ~~one year~~, and the fee would be operative only if the department determines there is sufficient landfill owner participation to warrant creation of the fund, rather than based on total volume of waste disposed by participating landfill operators ~~6 months~~, *except the total volume of waste would still be measured by the 2010 standard, with the exception that letters of participation would be based on submission of those letters by landfill owners rather than landfill operators*. The bill also would impose the participation notification requirements on the owner of a landfill rather than the operator.

(2) The act requires an operator of a landfill that meets specified requirements, including electing to participate in the fund, to submit written notice to the department on or before July 1, 2011. The act requires an operator that is operating a landfill on July 1, 2011, ~~who~~ *and* submits that notice after the increased fee goes into effect to pay all trust fund fees applicable from January 1, 2012, and a 5% penalty before being allowed to participate. For a new landfill that receives a solid waste facility permit after July 1, 2011, the act requires the operator's election to participate in the fund to be submitted in writing to the department before the department concurs in the issuance of the permit. The act also requires an operator of multiple landfills who is required to maintain evidence of financial ability and whose landfills are operating on July 1, 2011, to include all other landfills in which that operator has in common ownership in the letter of participation.

This bill would extend all of those dates by ~~one year~~ *6 months*, and would apply those requirements to owners rather than operators. Additionally, a landfill with multiple owners would be authorized to participate only if all owners of that landfill elect to participate, and participation of a landfill with multiple owners would not obligate a partial owner of that landfill to include any other landfills at which the owner has full or partial ownership.

(3) The act requires the department after January 1, 2015, to report annually on expenditures from the fund, the status of cost recovery actions, and any recommended statutory changes that are necessary to ensure adequate resources are available to carry out the purposes of the fund.

This bill would require the department to begin that annual reporting after January 1, 2016, rather than January 1, 2015.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 48000 of the Public Resources Code is
2 amended to read:

3 48000. (a) Each operator of a disposal facility shall pay a fee
4 quarterly to the State Board of Equalization, which is based on the
5 amount, by weight or volumetric equivalent, as determined by the
6 Department of Resources Recycling and Recovery, of all solid
7 waste disposed of at each disposal site.

8 (b) (1) The fee for solid waste disposed of shall be one dollar
9 and thirty-four cents (\$1.34) per ton. Commencing with the
10 1995–96 fiscal year, the amount of the fee shall be established by
11 the Department of Resources Recycling and Recovery at an amount
12 that is sufficient to generate revenues equivalent to the approved
13 budget for that fiscal year, including a prudent reserve, but shall
14 not exceed one dollar and forty cents (\$1.40) per ton.

15 (2) On and after ~~January 1, 2013~~ *July 1, 2012*, the amount of
16 the fee established by the Department of Resources Recycling and
17 Recovery pursuant to paragraph (1) shall be increased by twelve
18 cents (\$0.12) per ton for each operator of a solid waste landfill
19 whose owner has notified the department that it elects to participate
20 in the State Solid Waste Postclosure and Corrective Action Trust
21 Fund pursuant to Article 2.1 (commencing with Section 48010).

22 (c) The Department of Resources Recycling and Recovery shall
23 notify the state board on the first day of the period in which the
24 rate shall take effect of any rate change adopted pursuant to
25 paragraphs (1) and (2) of subdivision (b).

26 (d) The Department of Resources Recycling and Recovery and
27 the state board shall ensure that all of the fees for solid waste
28 imposed pursuant to this section that are collected at a transfer
29 station are paid to the state board in accordance with this article.

30 (e) (1) The fee imposed by paragraph (2) of subdivision (b)
31 shall not be operative on or after ~~January 1, 2013~~ *July 1, 2012*,
32 unless the Department of Resources Recycling and Recovery
33 receives, on or before ~~July~~ *January* 1, 2012, letters of participation
34 in the State Solid Waste Postclosure and Corrective Action Trust
35 Fund from landfill owners, and the department determines there

1 is sufficient landfill owner participation to warrant creation of the
2 fund. owners representing at least 50 percent of the total volume
3 of waste disposed of in 2010.

4 (2) The Department of Resources Recycling and Recovery shall
5 notify the state board, on or before ~~August 31~~ February 29, 2012,
6 if the fee imposed by paragraph (2) of subdivision (b) shall become
7 operative pursuant to paragraph (1).

8 SEC. 2. Section 48010 of the Public Resources Code is
9 amended to read:

10 48010. (a) (1) An owner of a landfill for which evidence of
11 financial ability is maintained pursuant to Article 4 (commencing
12 with Section 43600) of Chapter 2 of Part 4, whose landfill is
13 operating on ~~July~~ January 1, 2012, and that elects to participate
14 in the State Solid Waste Postclosure and Corrective Action Trust
15 Fund pursuant to this article, shall submit written notice to the
16 Department of Resources Recycling and Recovery on or before
17 ~~July~~ January 1, 2012.

18 (2) Except as provided in paragraph (3), an owner of multiple
19 landfills that elects to participate in the State Solid Waste
20 Postclosure and Corrective Action Trust Fund is required to submit
21 written notice that includes all of the owner's operating landfills
22 and all other landfills in which that owner has in common
23 ownership.

24 (3) A landfill with multiple owners may participate only if all
25 owners of that landfill elect to participate. Participation of a landfill
26 with multiple owners shall not obligate a partial owner of that
27 landfill to include any other landfill at which that owner has full
28 or partial ownership.

29 (4) The Department of Resources Recycling and Recovery shall
30 provide to the state board the name and address, and any other
31 information necessary to administer and collect the fee imposed
32 pursuant to paragraph (2) of subdivision (b) of Section 48000, of
33 every owner of a landfill electing to participate in the State Solid
34 Waste Postclosure and Corrective Action Trust Fund on or before
35 ~~August 31~~ February 29, 2012.

36 (b) If an operator that is operating a landfill on ~~July~~ January 1,
37 2012, submits a written notification to the Department of Resources
38 Recycling and Recovery that it elects to participate after the trust
39 fund fee goes into effect, the operator shall pay all trust fund fees

1 applicable from ~~January 1, 2013~~ *July 1, 2012*, and a 5-percent
2 penalty before being allowed to participate.

3 (c) For new landfills that receive a solid waste facility permit
4 after ~~July~~ *January* 1, 2012, the owner's election to participate in
5 the State Solid Waste Postclosure and Corrective Action Trust
6 Fund shall be submitted in writing to the Department of Resources
7 Recycling and Recovery before the department concurs in the
8 issuance of the permit pursuant to Section 44009.

9 (d) All elections to participate made by landfill owners pursuant
10 to this section are final, binding, and irrevocable for those owners
11 and their successors and assignees.

12 SEC. 3. Section 48012 of the Public Resources Code is
13 amended to read:

14 48012. After January 1, 2016, as part of the annual report
15 required pursuant to Section 40507, the Department of Resources
16 Recycling and Recovery shall report on expenditures from the
17 State Solid Waste Postclosure and Corrective Action Trust Fund,
18 the status of cost recovery actions, and any recommended statutory
19 changes that are necessary to ensure adequate resources are
20 available to carry out the purposes of the State Solid Waste
21 Postclosure and Corrective Action Trust Fund.

22 SEC. 4. Section 48013 of the Public Resources Code is
23 amended to read:

24 48013. Except as provided in paragraph (3) of subdivision (a)
25 of Section 48010, an owner of multiple landfills for which evidence
26 of financial ability is maintained pursuant to Article 4 (commencing
27 with Section 43600) of Chapter 2 of Part 4 and whose landfills are
28 operating on ~~July~~ *January* 1, 2012, shall include all other landfills
29 in which that owner has in common ownership in the letter of
30 participation.

AMENDED IN SENATE JUNE 23, 2010
AMENDED IN ASSEMBLY MAY 28, 2010
AMENDED IN ASSEMBLY APRIL 14, 2010
CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 2398

Introduced by Assembly Member John A. Pérez

February 19, 2010

An act to amend Section 12209 of the Public Contract Code, and to add Chapter 20 (commencing with Section 42970) to Part 3 of Division 30 of the Public Resources Code, relating to recycling.

LEGISLATIVE COUNSEL'S DIGEST

AB 2398, as amended, John A. Pérez. Product stewardship: carpet: public procurement.

(1) The California Integrated Waste Management Act of 1989, administered by the Department of Resources Recycling and Recovery, is required to reduce, recycle, and reuse solid waste generated in the state to the maximum extent feasible in an efficient cost-effective manner to conserve water, energy, and other natural resources.

The bill would require, by September 30, 2011, a manufacturer of carpets sold in this state, individually or through a carpet stewardship organization, to submit a carpet stewardship plan to the department, which would be required to include specified elements, including a funding mechanism that provides sufficient funding to carry out the plan, including administrative, operational, and capital costs of the plan. The department would be required to, among other things, within 60 days after the department receives a plan, review and determine whether the plan is complete and notify the submitter of its determination. *The*

bill would specify that any plan not determined to be complete by March 31, 2012, is out of compliance until determined to be complete by the department.

The bill would prohibit a manufacturer, wholesaler, or retailer, on and after April 1, 2012, from selling a carpet unless the plan for that carpet is in compliance with the act's requirements. The act would *also* require the carpet stewardship organization to meet specified targets in order to be in compliance.

Each manufacturer of carpet sold in the state, individually or through a carpet stewardship organization, would be required to prepare and submit to the department an annual report describing the activities carried out pursuant to the carpet stewardship plan.

A manufacturer or carpet stewardship organization submitting a carpet stewardship plan would be required to pay the department an annual administrative fee when submitting the plan for review and approval, as determined by the department. The bill would provide for the imposition of administrative civil penalties upon a person who sells carpet in violation of the bill.

(2) Existing law provides various procedures and requirements pertaining to the purchase of recycled items by the state, including, among other things, recycled paper products, plastic products, metal products, and paint.

This bill would additionally provide requirements for the purchase of carpet.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) Discarded carpet is one of the 10 most prevalent waste
4 materials in California landfills, equaling 3.2 percent of waste by
5 volume disposed of in California in 2008. Because carpet is heavy
6 and bulky, it imposes a significant solid waste management cost
7 on local governments.

8 (b) In 2002 the carpet industry entered into a carpet
9 memorandum of understanding (MOU) with the State of California
10 to achieve a goal of diverting from landfills 40 percent of discarded
11 carpet and recycling 20 percent of discarded carpet by 2012. Since

1 2002, however, the carpet recycling rate has never reached 5
2 percent and in 2008, the most recent year for which data are
3 available, the state's carpet recycling rate was 4.3 percent.

4 (c) As part of its fulfillment of the state's obligations under the
5 carpet MOU, the former Integrated Waste Management Board
6 made loans to various carpet recycling businesses in the state.
7 Those loans are now at risk, and employment in the carpet
8 recycling sector has dropped in recent years due to the continuing
9 low carpet recycling rate.

10 (d) Numerous products can be manufactured from recycled
11 carpets, including carpet, carpet underlayment, automobile parts,
12 picnic tables, park benches, and erosion control products.

13 (e) It is in the interest of the state to work with the carpet
14 industry to take additional steps to increase the collection and
15 recycling of discarded carpet into new products in order to reduce
16 the environmental and economic impacts of carpet as a waste
17 material and to create and sustain jobs in the state's carpet recycling
18 industry.

19 SEC. 2. Section 12209 of the Public Contract Code is amended
20 to read:

21 12209. For purposes of this article, the following minimum
22 content requirements apply:

23 (a) Recycled paper products shall consist of at least 30 percent,
24 by fiber weight, postconsumer fiber.

25 (b) (1) Recycled printing and writing paper shall consist of at
26 least 30 percent, by fiber weight, postconsumer fiber.

27 (2) Printed newspapers that meet the requirements of Chapter
28 15 (commencing with Section 42750) of Part 3 of Division 30 of
29 the Public Resources Code shall be considered in compliance with
30 the requirements of this section.

31 (c) For recycled compost, cocompost, and mulch, at least 80
32 percent of the product shall consist of materials, including, but not
33 limited to, the materials listed in subdivision (c) of Section 12207,
34 that would otherwise be normally disposed of in landfills.

35 (d) For recycled glass, the total weight shall consist of at least
36 10 percent postconsumer material.

37 (e) Rerefined lubricating oil shall have a base oil content
38 consisting of at least 70 percent rerefined oil.

1 (f) (1) For recycled plastic products, other than printer or
2 duplication cartridges, the total weight shall consist of at least 10
3 percent postconsumer material.

4 (2) Recycled printer or duplication cartridges shall comply with
5 either the requirements set forth in subdivision (e) of Section 12156
6 or the general requirement for recycled plastic products set forth
7 in paragraph (1).

8 (g) Recycled paint shall have a recycled content consisting of
9 at least 50 percent postconsumer paint. Preconsumer or secondary
10 paint does not qualify as "recycled paint" pursuant to this
11 subdivision. If paint containing 50 percent postconsumer content
12 is unavailable, or is restricted by a local air quality management
13 district, a state agency may substitute paint with at least 10 percent
14 postconsumer content.

15 (h) Recycled antifreeze fluid shall have a recycled content of
16 at least 70 percent postconsumer materials.

17 (i) Retreaded tires shall use an existing casing that has undergone
18 an approved or accepted recapping or retreading process, in
19 accordance with Chapter 7 (commencing with Section 42400) of
20 Part 3 of Division 30 of the Public Resources Code.

21 (j) For tire-derived products, the total content shall consist of
22 at least 50 percent recycled used tires.

23 (k) For recycled metal products, the total weight shall consist
24 of at least 10 percent postconsumer material.

25 (l) For reused or refurbished products, there is no minimum
26 content requirement.

27 (m) For recycled carpet, the total weight, including both fiber
28 and backing, shall consist of at least 25 percent postconsumer
29 carpet.

30 SEC. 3. Chapter 20 (commencing with Section 42970) is added
31 to Part 3 of Division 30 of the Public Resources Code, to read:

32

33 CHAPTER 20. PRODUCT STEWARDSHIP FOR CARPETS

34

35 ~~42970. The purpose of the carpet stewardship program~~
36 ~~established pursuant to this chapter is to require carpet~~
37 ~~manufacturers to develop and implement a program to increase~~
38 ~~the diversion of postconsumer carpet from landfills, increase the~~
39 ~~recyclability of carpets, and promote the recycling of postconsumer~~
40 ~~carpet into materials that are used to manufacture new products.~~

1 42970. *The purpose of this chapter is to increase the recycling*
2 *of postconsumer carpet into secondary products that can compete*
3 *successfully in the market by increasing the diversion of*
4 *postconsumer carpet from landfills, increasing the recyclability*
5 *of carpets, and incentivizing the growth of secondary products*
6 *made from postconsumer carpet.*

7 42971. For purposes of this chapter, and unless the context
8 otherwise requires, the definitions in this section govern the
9 construction of this chapter:

10 (a) "Brand" means a name, symbol, word, or mark that identifies
11 the carpet, rather than its components, and attributes the carpet to
12 the owner or licensee of the brand as the manufacturer.

13 (b) (1) "Carpet" means a manufactured article that is used in
14 commercial or residential buildings affixed or placed on the floor
15 or building walking surface as a decorative or functional building
16 interior feature and that is primarily constructed of a top visible
17 surface of synthetic face fibers or yarns or tufts attached to a
18 backing system derived from synthetic or natural materials.

19 (2) "Carpet" includes, but is not limited to, a commercial or a
20 residential broadloom carpet or modular carpet tiles.

21 (3) "Carpet" does not include a rug, pad, cushion, or
22 underlayment used in conjunction with, or separately from, a
23 carpet.

24 (c) "Carpet stewardship organization" or "organization" means
25 either of the following:

26 (1) An organization appointed by one or more manufacturers
27 to act as an agent on behalf of the manufacturer to design, submit,
28 and administer a carpet stewardship plan pursuant to this chapter.

29 (2) A carpet manufacturer that complies with this chapter as an
30 individual manufacturer.

31 (d) "Carpet stewardship plan" or "plan" means a plan written
32 by an individual manufacturer or a carpet stewardship organization,
33 on behalf of one or more manufacturers, that includes all of the
34 information required by Section 42972.

35 (e) "*Consumer*" means a purchaser or owner of carpet,
36 including a person, business, corporation, limited partnership,
37 nonprofit organization, or governmental entity.

38 ~~(e)~~

39 (f) "Department" means the Department of Resources Recycling
40 and Recovery.

- 1 ~~(f)~~
 2 (g) "Manufacturer" ~~shall be determined~~ *means*, with regard to
 3 a carpet that is sold, offered for sale, or distributed in the state, ~~as~~
 4 ~~meaning one~~ *any* of the following:
- 5 (1) The person who manufactures the carpet and who sells,
 6 offers for sale, or distributes that carpet in the state under that
 7 person's own name or brand.
- 8 (2) If there is no person who sells, offers for sale, or distributes
 9 the carpet in the state under the person's own name or brand, the
 10 manufacturer of the carpet is the owner or licensee of a trademark
 11 or brand under which the carpet is sold or distributed in the state,
 12 whether or not the trademark is registered.
- 13 (3) If there is no person who is a manufacturer of the carpet for
 14 the purpose of paragraphs (1) and (2), the manufacturer of that
 15 carpet is the person who imports the carpet into the state for sale
 16 or distribution.
- 17 (h) "*Postconsumer carpet*" *means carpet that is no longer used*
 18 *for its manufactured purpose.*
- 19 ~~(g)~~
 20 (i) "Program" means the system for the collection,
 21 transportation, recycling, and disposal of carpets pursuant to a
 22 completed carpet stewardship plan that is financed and managed
 23 or provided by an individual manufacturer or collectively by one
 24 or more manufacturers.
- 25 (j) "*Recycling*" *means the process, consistent with Section*
 26 *40180, of converting postconsumer carpet into a useful product that*
 27 *meets the quality standards necessary to be used in the*
 28 *marketplace.*
- 29 ~~(h)~~
 30 (k) "Retailer" means a person who offers new carpet in a retail
 31 sale, as defined in Section 6007 of the Revenue and Taxation Code,
 32 including a retail sale ~~at retail~~ through any means, including remote
 33 offerings such as sales outlets, catalogs, or an Internet Web site
 34 *or other similar electronic means.*
- 35 ~~(i)~~
 36 (l) "Sell" or "sales" means a transfer of title of a carpet for
 37 consideration, including a remote sale conducted through a ~~sale~~
 38 *sales* outlet, catalog, or Internet Web site or similar electronic
 39 means, but does not include a lease.
- 40 ~~(j)~~

1 (m) "Wholesaler" means a person who offers new ~~carpets~~ *carpet*
2 for sale in this state in a sale that is not a retail sale, as defined in
3 Section 6007 of the Revenue and Taxation Code, and in which the
4 carpet is intended to be resold.

5 42972. ~~(a)~~ *On (a) Carpet stewardship plans prepared pursuant*
6 *to this section shall achieve the purpose of the act as described in*
7 *Section 42970.*

8 (b) *On or before September 30, 2011, a manufacturer of carpets*
9 *sold in this state shall, individually or through a carpet stewardship*
10 *organization, submit a carpet stewardship plan to the department*
11 *that will do all of the following:*

12 (1) *Develop and implement a program, including measurable*
13 *goals established by the stewardship organization, that will increase*
14 *the diversion of postconsumer carpet from landfills, increase the*
15 *recyclability of carpets, and promote the recycling of postconsumer*
16 *carpet into materials that are used to manufacture new products.*
17 *meet the purpose of the act as described in subdivision (a).*

18 (2) *Meet the requirements of Section 42975.*

19 (3) *Include a funding mechanism, consistent with subdivision*
20 ~~(b)~~ *(c), that provides sufficient funding to carry out the program*
21 *as described in the plan, including the administrative, operational,*
22 *and capital costs of the plan.*

23 (4) *Include education and outreach efforts to consumers, carpet*
24 *installation contractors, and retailers, and waste haulers to promote*
25 *the segregated collection and recycling of postconsumer carpet.*
26 *their participation in achieving the purpose of the carpet*
27 *stewardship program as described in subdivision (a). Education*
28 *and outreach materials may include, but are not limited to, the*
29 *following:*

30 (A) *Signage that is prominently displayed and easily visible to*
31 *the consumer.*

32 (B) *Written materials and templates of materials for*
33 *reproduction by retailers to be provided to consumers at the time*
34 *of purchase or delivery or both.*

35 (C) *Written materials or templates of materials for reproduction*
36 *by retailers to be provided to carpet installation contractors.*

37 ~~(b)~~

38 (c) (1) *The funding mechanism required pursuant to paragraph*
39 *(3) of subdivision ~~(a)~~ (b) shall provide for an a carpet stewardship*
40 *assessment per unit of carpet sold by manufacturers in the state,*

1 as determined in the plan, to be paid by each member of the carpet
2 stewardship organization in an amount that cumulatively will
3 adequately fund the program. The assessment shall be remitted to
4 the carpet stewardship organization ~~to be used~~ *and shall only be*
5 *used by the organization to carry out the program.*

6 (2) The amount of the assessment and the anticipated revenues
7 from the assessment shall be specified in the plan and shall be
8 approved by the department as part of the plan. The assessment
9 shall be sufficient to meet, but not exceed, the anticipated cost of
10 carrying out the plan. *Revenue from the assessment shall not be*
11 *used competitively by the organization or an individual*
12 *manufacturer.*

13 42973. Within 60 days after the department receives a plan
14 submitted pursuant to Section 42972, it shall review the plan,
15 determine whether it is complete, and notify the submitter of its
16 determination. If the department notifies the submitter that the
17 plan is not complete, the submitter shall revise and resubmit the
18 plan within 60 days after receiving the notification. *Any plan not*
19 *determined to be complete by March 31, 2012, shall be out of*
20 *compliance with this chapter and subject to Section 42974 until*
21 *the plan is determined by the department to be complete.*

22 42974. ~~On~~ *(a) The department shall enforce this chapter.*

23 *(b) On and after April 1, 2012, a manufacturer, wholesaler, or*
24 *retailer shall not offer a carpet for sale in this state or offer a carpet*
25 *for promotional purposes in this state unless a plan submitted by*
26 *an organization that includes the manufacturer of that carpet is in*
27 *compliance with this chapter.*

28 *(c) In order to enforce this chapter, the department shall, among*
29 *other activities, review the annual report prepared pursuant to*
30 *Section 42976 and within 90 days of receipt shall determine*
31 *whether the submitter of the plan is in compliance with the*
32 *requirements of the act.*

33 42975. (a) In order to achieve compliance with this chapter,
34 a carpet stewardship organization shall demonstrate to the
35 department that the following targets have been met:

36 (1) The amount of postconsumer carpet recycled in the state
37 shall equal or exceed 25 percent by January 1, 2017.

38 (2) The amount of postconsumer carpet recycled in the state
39 shall equal or exceed 50 percent by January 1, 2022.

1 (b) The percentage of carpet that has been recycled shall be
2 calculated by a method adopted by the department after consulting
3 with carpet stewardship organizations and taking into account the
4 information provided to the department pursuant to Section 42976.

5 (c) If more than one organization submits a carpet stewardship
6 plan pursuant to this chapter, the department shall use information
7 submitted by the organization in its annual report pursuant to
8 Section 42976 to determine the recycling rate attributable to each
9 organization and shall determine compliance with this chapter
10 accordingly.

11 42976. On or before July 1, 2013, and each year thereafter, a
12 manufacturer of carpet sold in the state shall, individually or
13 through a carpet stewardship organization, submit to the department
14 a report describing its activities ~~since the previous report. The to~~
15 *achieve the purpose of the act as described in Section 42970. At*
16 *a minimum, the report shall include all of the following:*

17 (a) ~~The total amount~~ *volume* of carpet sold ~~and postconsumer~~
18 ~~carpet collected, by volume and by square yards and~~ weight, in
19 the state during the reporting period.

20 (b) ~~The total amount~~ *volume* of postconsumer carpet recycled,
21 ~~by volume and~~ weight, in the state during the reporting period.

22 (c) *The total volume of postconsumer carpet recovered but not*
23 *recycled, by weight, and its ultimate disposition.*

24 ~~(e)~~

25 (d) The total cost of implementing the carpet stewardship
26 program and other elements of the carpet stewardship plan.

27 ~~(d)~~

28 (e) An evaluation of the effectiveness of the program, its funding
29 mechanism, and other elements of the plan and anticipated steps,
30 if needed, to improve performance.

31 (f) *Examples of educational materials that were provided to*
32 *consumers during the reporting period.*

33 42977. (a) The carpet stewardship organization submitting a
34 carpet stewardship plan shall pay the department an annual
35 administrative fee. The department shall set the fee at an amount
36 that, when paid by every carpet stewardship organization that
37 submits a carpet stewardship plan, is adequate to cover the
38 department's full costs of administering and enforcing this chapter.
39 The department may establish a variable fee based on relevant
40 factors, including, but not limited to, the portion of carpets sold in

1 the state by members of the organization compared to the total
2 amount of carpet sold in the state by all organizations submitting
3 a carpet stewardship plan.

4 (b) The total amount of annual fees collected pursuant to this
5 section shall not exceed the amount necessary to recover costs
6 incurred by the department in connection with the administration
7 and enforcement of the requirements of this chapter.

8 42978. (a) A civil penalty up to the following amounts may
9 be administratively imposed by the department on any person who
10 sells or offers for sale a carpet that has been prohibited from sale
11 pursuant to Section 42974:

12 (1) One thousand dollars (\$1,000) per violation.

13 (2) Ten thousand dollars (\$10,000) per violation if the violation
14 is intentional, knowing, or negligent.

15 (b) Any penalties collected by the department shall be used to
16 offset the cost of administering and enforcing this chapter.

17 42979. This ~~article~~ *chapter* does not limit, supersede, duplicate,
18 or otherwise conflict with the authority of the Department of Toxic
19 Substances Control under Section 25257.1 of the Health and Safety
20 Code to fully implement Article 14 (commencing with Section
21 25251) of Chapter 6.5 of Division 20 of the Health and Safety
22 Code, including the authority of the department to include a carpet
23 in its product registry.

24

25

26 CORRECTIONS:

27 Text—Page 6.

28

AMENDED IN ASSEMBLY JUNE 15, 2010

AMENDED IN SENATE APRIL 22, 2010

AMENDED IN SENATE MARCH 25, 2010

SENATE BILL

No. 1100

Introduced by Senator Corbett

February 17, 2010

An act to add Article 3 (commencing with Section 42450.1) to Chapter 8 of Part 3 of Division 30 of the Public Resources Code, relating to product stewardship.

LEGISLATIVE COUNSEL'S DIGEST

SB 1100, as amended, Corbett. Product stewardship: household batteries.

The California Integrated Waste Management Act of 1989, administered by the Department of Resources Recycling and Recovery, is required to reduce, recycle, and reuse solid waste generated in the state to the maximum extent feasible in an efficient cost-effective manner to conserve water, energy, and other natural resources.

The bill would require, by September 30, 2011, a producer or the household battery stewardship organization created by one or more producers of a household battery to submit a household battery stewardship plan to the department, which would be required to include specified elements, including product goals and a collection rate for the household batteries subject to the plan, calculated in a specified manner. The bill would allow a registered hazardous waste transporter to elect to submit a household battery stewardship plan to the department on behalf of one or more producers and would require a hazardous waste transporter making that election to comply with the provisions of the

bill applicable to a household battery stewardship organization. The department would be required to review a household battery stewardship plan submitted to the department and deem the plan either complete or incomplete within 45 days after receipt.

The bill would prohibit a producer, wholesaler, or retailer, on and after January 1, 2012, from selling a household battery unless the plan for that battery is deemed complete by the department. The act would require a producer or the household battery stewardship organization to implement the household battery program pursuant to the household battery stewardship plan, including achieving the collection rate.

Each producer or household battery stewardship organization implementing a household battery stewardship plan would be required to prepare and submit to the department an annual report describing the activities carried out pursuant to the household battery stewardship plan.

A producer or household battery stewardship organization submitting a household battery stewardship plan would be required to pay the department a plan review fee, as determined by the department, when submitting the plan to the department and to pay an administrative fee, as determined by the department, when submitting the annual report. The bill would provide for the imposition of administrative civil penalties upon a producer that does not comply with the bill's requirements or a wholesaler or retailer selling household batteries in violation of the bill. The bill would create the Household Battery Stewardship Account in the existing Integrated Waste Management Fund and would require that the fees be deposited into that account and that the penalties be deposited into the Household Battery Stewardship Penalty Subaccount that the bill would create in that account. The bill would authorize the fees and penalties to be expended, upon appropriation by the Legislature, to cover the department's program implementation costs and would authorize all funds collected or received by the department under the program, except for the fees, to be expended as incentives to enhance recyclability and redesign efforts and to reduce environmental and safety impacts of household batteries.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) In early 2006, all household batteries were classified by the
4 state as universal waste and prohibited from being disposed of in
5 solid waste landfills. Under state law, "household batteries" means
6 batteries made of mercury, alkaline, carbon-zinc, nickel-cadmium,
7 and other batteries typically generated as household waste,
8 including, but not limited to, batteries used in hearing aids,
9 cameras, watches, computers, calculators, flashlights, lanterns,
10 standby and emergency lighting, portable radio and television sets,
11 meters, toys, and clocks, but excluding lead-acid batteries ~~and~~,
12 batteries that are sold in a "covered electronic device," as defined
13 in Section 42463 of the Public Resources Code, *and batteries that*
14 *are not easily removable or are not intended or designed to be*
15 *removed from the products, other than by the manufacturer.*

16 (b) Effective July 1, 2006, state law prohibited most retailers
17 from selling rechargeable batteries in the state unless they have a
18 system in place for collecting used rechargeable batteries from
19 consumers.

20 (c) Approximately 80 percent of batteries sold in this state are
21 alkaline batteries, and are not covered under the retail take-back
22 requirements.

23 (d) Local governments throughout the state are responsible for
24 the collection and management of household batteries, and to
25 manage this hazardous waste, these local governments and
26 taxpayers pay a range of between eight hundred dollars (\$800) per
27 ton to two thousand seven hundred dollars (\$2,700) per ton, or
28 tens of millions of dollars each year.

29 (e) Because other types of recycling programs have proven to
30 have limited success, state and regional governments in Europe
31 and Canada have adopted producer responsibility programs to
32 redirect the responsibility for the end-of-life management of
33 discarded hazardous and hard-to-manage products from local
34 governments and retailers primarily to producers.

35 (f) After many public hearings and discussions, the former
36 California Integrated Waste Management Board adopted an overall
37 Framework for an Extended Producer Responsibility (EPR)
38 guidance document as a policy priority in January 2008.

1 (g) The program established by this act is intended to reduce
2 costs to local government, to harmonize the state's producer
3 responsibility obligations with other national and international
4 programs, and to enhance the protection of public health and
5 environment through safer product design, use, and end-of-life
6 management.

7 SEC. 2. Article 3 (commencing with Section 42450.1) is added
8 to Chapter 8 of Part 3 of Division 30 of the Public Resources Code,
9 to read:

10
11 Article 3. Product Stewardship for Household Batteries
12

13 42450.1. For purposes of this article, and unless the context
14 otherwise requires, the definitions in this article govern the
15 construction of this article.

16 (a) "Brand" means a name, symbol, word, or mark that identifies
17 a household battery, rather than its components, and attributes the
18 household battery to the owner or licensee of the brand as the
19 producer.

20 (b) "Collection rate" means a quantitative measure established
21 in each household battery stewardship plan that establishes the
22 amount of household batteries required to be collected by the
23 household battery stewardship system for that household battery
24 by an established date. The collection rate is included as a
25 component of the product goals for a household battery. The
26 collection rate shall be calculated by weight.

27 (c) "Department" means the Department of Resources Recycling
28 and Recovery.

29 (d) "Household battery" has the same meaning as defined in
30 subdivision (c) of Section 42450, but shall not include *any of the*
31 *following*:

32 (1) A battery that is sold in a "covered electronic device," as
33 defined in Section 42463.

34 (2) A battery that is not easily removable or is not intended or
35 designed to be removed from the product, other than by the
36 manufacturer.

37 (e) "Household battery stewardship organization" means an
38 organization appointed by one or more producers to act as an agent
39 on behalf of the producer to design, submit, and administer a
40 household battery stewardship plan pursuant to this article.

1 (f) "Household battery stewardship plan" or "plan" means a
2 plan written by an individual producer, a household battery
3 stewardship organization, or a hazardous waste transporter
4 registered pursuant to Section 25163 of the Health and Safety
5 Code, on behalf of one or more producers, that includes all of the
6 information required by Section 42450.2.

7 (g) "Producer" shall be determined, with regard to a household
8 battery that is sold, offered for sale, or distributed in the state, as
9 meaning one of the following:

10 (1) The person who manufactures the household battery and
11 who sells, offers for sale, or distributes that household battery in
12 the state under that person's own name or brand.

13 (2) If there is no person who sells, offers for sale, or distributes
14 the household battery in the state under the person's own name or
15 brand, the producer of the household battery is the owner or
16 licensee of a trademark or brand under which the household battery
17 is sold or distributed in the state, whether or not the trademark is
18 registered.

19 (3) If there is no person who is a producer of the household
20 battery for purposes of paragraphs (1) and (2), the producer of that
21 household battery is the person who imports the household battery
22 into the state for sale or distribution.

23 (h) "Product stewardship" means requiring the producer of a
24 household battery, and all other entities involved in the distribution
25 chain of a household battery, to share in the responsibility of
26 reducing the life-cycle impact of the household battery and its
27 packaging, including requiring the producer who makes design
28 and marketing decisions for the household battery to bear the
29 primary responsibility for this reduction.

30 (i) "Product goal" means those qualitative or quantitative goals
31 determined by the producer to address and measure source
32 reduction, material content, packaging, and end-of-life
33 management.

34 (j) "Program" means the system for the collection,
35 transportation, recycling, and disposal of household batteries
36 pursuant to a completed household battery stewardship plan that
37 is financed and managed or provided by an individual producer,
38 collectively by one or more producers or by a hazardous waste
39 transporter pursuant to paragraph (2) of subdivision (a) of Section
40 42450.2.

1 (k) "Recycling rate" means a quantitative measure that
2 establishes the amount of collected household batteries that is
3 recycled as compared to the total amount of household batteries
4 that is collected, including the amount of the household batteries
5 that is discarded for reuse, energy recovery, or safe disposal.

6 (l) "Reuse rate" means a quantitative measure that establishes
7 the amount of collected household batteries that is reused as
8 compared to the total amount of household batteries that is
9 collected, including the amount of household batteries that is
10 discarded by recycling, energy recovery, or safe disposal.

11 (m) "Reporting period" means the period commencing January
12 1 and ending on December 31 of the same calendar year.

13 (n) "Retailer" means a person that offers new household batteries
14 in a retail sale, as defined in Section 6007 of the Revenue and
15 Taxation Code, including a retail sale at retail through any means,
16 including remote offerings such as sales outlets, catalogs, or an
17 Internet Web site.

18 (o) "Sell" or "sales" means any transfer of title of a household
19 battery for consideration, including a remote sale conducted
20 through a sale outlet, catalog, or Internet Web site or similar
21 electronic means, but does not include a lease.

22 (p) "Wholesaler" means a person that offers new household
23 batteries for sale in this state in a sale that is not a retail sale, as
24 defined in Section 6007 of the Revenue and Taxation Code, and
25 for which the household battery is intended to be resold.

26 42450.2. (a) (1) On or before September 30, 2011, a producer
27 or the household battery stewardship organization of a household
28 battery shall submit a household battery stewardship plan to the
29 department.

30 (2) A hazardous waste transporter registered pursuant to Section
31 25163 of the Health and Safety Code may elect to submit a
32 household battery stewardship plan to the department on behalf
33 of one or more producers, and, if so, the hazardous waste
34 transporter shall submit the household battery stewardship plan to
35 the department on or before September 30, 2011, and shall comply
36 with the provisions of this article that apply to a household battery
37 stewardship organization, including, but not limited to, payment
38 of the fees specified in Section 42450.10.

39 (b) A producer, group of producers, or household battery
40 stewardship organization shall consult with stakeholders during

1 the development of the household battery stewardship plan,
2 including soliciting stakeholder comments and responding to
3 stakeholder comments prior to submitting the household battery
4 stewardship plan.

5 (c) Each household battery stewardship plan shall include, at a
6 minimum, all of the following elements:

7 (1) Contact information for all participating producers.

8 (2) The collection rate for the household batteries subject to the
9 plan, which shall be calculated in the following manner, except as
10 provided in Section 42450.4:

11 (A) For the calendar year commencing January 1, 2014, the
12 collection rate shall be 50 percent of the household batteries sold
13 by the producers subject to the plan during the previous calendar
14 year.

15 ~~(B) On and after January 1, 2017, the collection rate shall be~~
16 ~~70 percent of the household batteries sold by the producers subject~~
17 ~~to the plan during the previous calendar year. collection rate shall~~
18 ~~be 25 percent of the average number of household batteries that~~
19 ~~are sold in the state during the previous three calendar years by~~
20 ~~the producers who are subject to that plan.~~

21 (B) On and after January 1, 2016, the collection rate shall be
22 45 percent of the average number of household batteries that are
23 sold in the state during the previous three calendar years by the
24 producers who are subject to that plan.

25 (C) The plan shall have a target of achieving a 95-percent
26 collection rate.

27 (3) A description containing all of the following elements:

28 (A) Brands of the household batteries covered by the plan.

29 (B) How the product goals will be achieved.

30 (C) The annual schedule for achievement of the collection rate.

31 (D) Convenient collection opportunities for consumers in all
32 counties of the state.

33 (E) Reuse rate and recycling rate for household batteries.

34 (F) Roles and responsibilities of key players along the
35 distribution chain.

36 (G) Procedures to be used for notifying retailers and wholesalers
37 of the program.

38 (H) How existing collection points and programs can be
39 identified and maximized to achieve the required collection rates.

1 (4) Financing method selected to sustainably fund the
2 implementation of the plan.

3 (5) Education and outreach activities to maximize collection
4 rates.

5 (6) A producer or household battery stewardship organization
6 shall contact cities, counties, districts, and regional agencies, in
7 whose jurisdictions the program will be implemented, to do either,
8 or both, of the following:

9 (A) Reimburse the local public agency for the mutually agreed
10 upon cost of collecting household batteries.

11 (B) Provide the local public agency with the location, hours,
12 and contact information for the convenient collection points for
13 household batteries that are located within the county where the
14 local agency is located and are consistent with the plan.

15 42450.3. (a) A household battery stewardship program shall
16 be considered in compliance with this article only if it achieves
17 the collection rate specified in a plan that has been deemed
18 complete by the department pursuant to Section 42450.5.

19 (b) If a program achieves a collection rate of 95 percent, the
20 producer or household battery stewardship organization shall not
21 be required to pay the annual fee imposed pursuant to subdivision
22 (b) of Section 42450.10.

23 42450.4. A producer may petition the department for an
24 adjustment to the collection rate. The department may grant an
25 adjustment to the collection rate only if the department determines
26 there are documented exigent circumstances that are beyond the
27 control of the producer or household battery stewardship
28 organization.

29 42450.5. (a) The department shall review a plan within 45
30 days after the date the plan is received and either deem the plan
31 complete or incomplete. If the department does not deem the plan
32 complete, the department shall notify the producer or organization
33 that submitted the plan of the deficiencies and the producer or
34 organization shall revise and resubmit the plan within 45 days after
35 receiving the notification. If the department deems the plan
36 complete, the department shall, within 45 days after receipt, notify
37 the producer or organization that the submitted plan is complete.

38 (b) The department shall make all household battery stewardship
39 plans submitted to the department available to the public on the
40 department's Internet Web site.

1 (c) A producer shall notify the department 30 days before
2 instituting a significant or material change to a household battery
3 stewardship plan.

4 (d) On or before July 1, 2012, and on or before July 1 annually
5 thereafter, the department shall post on its Internet Web site a
6 listing of the brands of household batteries for which the producer
7 is in compliance with this article.

8 42450.6. On and after January 1, 2012, a producer, wholesaler,
9 or retailer shall not offer a household battery for sale in this state
10 or offer a household battery for promotional purposes in this state
11 unless one of the following applies:

12 (a) The plan submitted by the producer or household battery
13 stewardship organization of that household battery has been
14 deemed complete by the department pursuant to Section 42450.5.

15 (b) A plan submitted by a hazardous waste transporter on behalf
16 of the producer of that household battery pursuant to paragraph
17 (2) of subdivision (a) of Section 42450.2 is deemed complete by
18 the department.

19 42450.7. Upon receiving notification from the department
20 pursuant to Section 42450.5 that a plan is complete, the producer
21 or the household battery stewardship organization shall do all of
22 the following:

23 (a) Implement the plan, including, but not limited to, achieving
24 the collection rate specified in the plan.

25 (b) Pay the administrative fees imposed pursuant to subdivision
26 (b) of Section 42450.10.

27 (c) Submit the annual report required by Section 42450.9.

28 42450.8. A wholesaler or a retailer that distributes or sells
29 household batteries shall monitor the department's Internet Web
30 site to determine if the sale of a producer's household batteries is
31 in compliance with this article.

32 42450.9. (a) On or before April 1, 2013, and every subsequent
33 year thereafter, each producer or household battery stewardship
34 organization implementing a plan shall prepare and submit to the
35 department an annual report describing the activities carried out
36 pursuant to the plan during the previous calendar year. The annual
37 report shall include, but is not limited to, all of the following:

38 (1) The extent to which each element of the plan specified in
39 subdivision (c) of Section 42450.2 is attained, including, but not
40 limited to, achieving the collection rate specified in the plan.

1 (2) The actions that the producer will take during the next
2 reporting period to meet the product goals specified in the plan
3 that have not been met.

4 (3) A report of the total sales data for household batteries sold
5 in the state for the previous ~~calendar year~~ *three calendar years*.

6 (b) The department shall review an annual report submitted
7 pursuant to this section and shall deem it complete if the
8 department determines the report contains the information required
9 by this section.

10 (c) If the department does not act on a report within 45 days of
11 receipt, the report shall be deemed to be complete.

12 (d) The department shall make all reports submitted to the
13 department pursuant to this section available to the public on the
14 department's Internet Web site.

15 (e) If the collection rate for the household batteries subject to
16 the plan meets the collection rate specified in subdivision (b) of
17 Section 42450.3, the report shall be submitted once every two
18 years.

19 42450.10. (a) (1) A producer or household battery stewardship
20 organization that submits a battery stewardship plan to the
21 department shall pay a plan review fee to the department pursuant
22 to this subdivision.

23 (2) The department shall set the plan review fee at an amount
24 so that the total amount of plan review fees received by the
25 department is adequate to cover the department's full costs of
26 reviewing and acting upon the plan. The department may establish
27 a variable plan review fee based on relevant factors, including, but
28 not limited to, the proportion of household batteries produced by
29 the feepayer as compared to the total amount of batteries produced
30 by all producers or household battery stewardship organizations
31 submitting a household battery stewardship plan.

32 (3) The fee shall be due to the department upon submittal of the
33 plan.

34 (b) (1) Except as provided in paragraph (4), a producer or
35 household battery stewardship organization required to submit an
36 annual report pursuant to this article shall pay an annual
37 administrative fee to the department pursuant to this subdivision.

38 (2) The department shall set the annual administrative fee in an
39 amount that is sufficient to pay for the department's cost of
40 reviewing annual reports and enforcing this article. The department

1 may establish a variable annual administrative fee based on relevant
2 factors, including, but not limited to, the proportion of household
3 batteries produced by the feepayer, as compared to the total amount
4 of household batteries produced by all producers or household
5 battery stewardship organizations submitting an annual report.

6 (3) The fee shall be due to the department upon submittal of the
7 annual report.

8 (4) If the program implementing the plan submitted by the
9 producer meets the collection rate specified in subdivision (b) of
10 Section 42450.3, the producer or household battery stewardship
11 organization is not required to pay the fees imposed pursuant to
12 this subdivision.

13 (c) The total amount of fees collected pursuant to this section
14 shall not exceed the amount necessary to recover costs incurred
15 by the department in connection with the administration and
16 enforcement of the requirements of this article.

17 42450.11. (a) The Household Battery Stewardship Account
18 and the Household Battery Stewardship Penalty Subaccount are
19 hereby established in the Integrated Waste Management Fund.

20 (b) All fees collected pursuant to this article shall be deposited
21 in the Household Battery Stewardship Account and may be
22 expended by the department, upon appropriation by the Legislature,
23 to cover the department's costs to implement this article.

24 (c) All penalties collected pursuant to this article shall be
25 deposited in the Household Battery Stewardship Penalty
26 Subaccount and may be expended by the department, upon
27 appropriation by the Legislature, to cover the department's costs
28 to implement this article.

29 (d) All funds that are collected or received by the department
30 pursuant to this article, other than the fees specified in subdivision
31 (b), may be expended as incentives to enhance reuse, recyclability,
32 and redesign efforts and to reduce environmental and safety impacts
33 of household batteries.

34 42450.12. (a) If, after holding a public hearing, the department
35 finds that a producer has failed to make a good faith effort to
36 comply with this article, including, but not limited to, failing to
37 submit a plan pursuant to Section 42450.2 or failing to submit an
38 annual report pursuant to Section 42450.9, the department shall
39 issue a compliance order with a schedule for achieving compliance.

1 (b) If, after issuing an order and schedule for compliance
2 pursuant to subdivision (a), the department finds that the producer
3 has failed to make a good faith effort to comply with this article,
4 the department may impose an administrative civil penalty of five
5 thousand dollars (\$5,000) per day until the producer achieves
6 compliance.

7 (c) For purposes of this section, “good faith effort” means all
8 reasonable and feasible efforts by a producer or the program
9 implementing a plan deemed complete by the department towards
10 implementing the requirements of this article, including, but not
11 limited to, meeting the collection rate specified in the plan.

12 (d) If a household battery stewardship organization or hazardous
13 waste transporter submits a plan on behalf of a producer pursuant
14 to Section 42450.2, which plan is deemed complete by the
15 department, and the department finds the program established by
16 the plan has made a good faith effort to implement this article, the
17 department shall not deem the producer to have failed to make a
18 good faith effort to implement this article.

19 42450.13. (a) The department may impose an administrative
20 civil penalty not to exceed one thousand dollars (\$1,000) per day
21 against a wholesaler or retailer that violates Section 42450.6.

22 (b) A wholesaler or retailer that removes from sale any
23 household battery within 90 days of discovery that it is not in
24 compliance with this article shall not be deemed to be in violation
25 of Section 42450.6.

26 (c) Prior to enforcing any penalty pursuant to this section, the
27 department shall issue a compliance order to the wholesaler or
28 retailer selling the household battery allowing 30 days from the
29 date of the compliance order to cease sales of the household battery.

30 42450.16. This article does not limit, supersede, duplicate, or
31 otherwise conflict with the authority of the Department of Toxic
32 Substances Control under Section 25257.1 of the Health and Safety
33 Code to fully implement Article 14 (commencing with Section
34 25251) of Chapter 6.5 of Division 20 of the Health and Safety
35 Code, including the authority of the department to include
36 household batteries in its household battery registry.